

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ARISTA RECORDS LLC, a Delaware
limited liability company; SONY BMG
MUSIC ENTERTAINMENT, a Delaware
general partnership; UMG RECORDINGS,
INC., a Delaware corporation; PRIORITY
RECORDS LLC, a California limited
liability company; WARNER BROS.
RECORDS INC., a Delaware corporation;
ELEKTRA ENTERTAINMENT GROUP
INC., a Delaware corporation; and
ATLANTIC RECORDING
CORPORATION, a Delaware corporation,

Plaintiffs,

vs.

KRISTEN NICHOLE PHILLIPS, AKA
NIKKI PHILLIPS,

Defendant.

Civil Action No.: 3:07-cv-00200-WHA-TFM

REQUEST TO ENTER DEFAULT

TO THE CLERK OF THE COURT:

Plaintiffs hereby request that the Clerk enter default in this matter against Defendant on the ground that Defendant has failed to appear or otherwise respond to the Complaint within the time prescribed by the Federal Rules of Civil Procedure. Declaration of Kelly F. Pate ¶ 5.

Plaintiffs served the Summons and Complaint on Defendant on March 14, 2007, by substitute service, as evidenced by the proof of service on file with this Court. Id. ¶ 2. Neither Plaintiffs nor the Court have granted Defendant any extensions of time to respond to the Complaint. Id. ¶ 4.

Plaintiffs are informed and believe that Defendant is not an infant or incompetent person or in the military service. Id. ¶¶ 6-7.

Respectfully submitted,

DATED: May 8, 2007

s/Kelly F. Pate

Dorman Walker (Bar # WAL086)

Kelly F. Pate (Bar # FIT014)

BALCH & BINGHAM LLP

105 Tallapoosa St., Suite 200

P.O. Box 78 (36101-0078)

Montgomery, Alabama 36104

Telephone: (334) 269-3130

Fax: (334) 313-6056

ATTORNEYS FOR PLAINTIFFS

ATTACHMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ARISTA RECORDS LLC, a Delaware
limited liability company; SONY BMG
MUSIC ENTERTAINMENT, a Delaware
general partnership; UMG RECORDINGS,
INC., a Delaware corporation; PRIORITY
RECORDS LLC, a California limited
liability company; WARNER BROS.
RECORDS INC., a Delaware corporation;
ELEKTRA ENTERTAINMENT GROUP
INC., a Delaware corporation; and
ATLANTIC RECORDING
CORPORATION, a Delaware corporation,

Plaintiffs,

vs.

KRISTEN NICHOLE PHILLIPS, AKA
NIKKI PHILLIPS,

Defendant.

Civil Action No.: 3:07-cv-00200-WHA-TFM

**DECLARATION OF KELLY F. PATE IN SUPPORT OF
PLAINTIFFS' REQUEST TO ENTER DEFAULT**

I, Kelly F. Pate, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of Alabama and this United States District Court. I am an attorney in the law firm of Balch & Bingham LLP, attorneys for Plaintiffs. Unless otherwise stated, I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

2. On March 6, 2007, Plaintiffs filed the Complaint in this case against Defendant. Attached hereto as Exhibit A is a true and correct copy of the proof of service on file with the

Court, reflecting that Defendant was served with the Summons and Complaint on March 14, 2007, by substitute service.

3. More than 20 days have elapsed since the date on which service of the Summons and Complaint was effective.

4. Neither Plaintiffs nor the Court have granted Defendant any extension of time to respond to the Complaint.

5. Defendant has failed to answer or otherwise respond to the Complaint, or serve a copy of any answer or other response upon Plaintiffs' attorneys of record.

6. I am informed and believe that Defendant is not an infant or incompetent person.

7. A search for Defendant's name was conducted through the Defense Manpower Data Center, Servicemembers Civil Relief Act database. That search revealed no evidence that Defendant is in the military service.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 9th day of May, 2007 at Montgomery, Alabama.

Kelly F. Pate
Kelly F. Pate

ATTACHMENT
TO
DECLARATION OF KELLY F. PATE

PFI

PROCESS
FORWARDING
INTERNATIONAL

633 Yesler Way Seattle, WA 98104 www.pfiserves.com
800 232-8854 Fax: 800 734-6859

PROCESS SERVICE NOTIFICATION

To: **BALCH & BINGHAM, LLP**
PO BOX 78
MONTGOMERY, AL 36101

Attention: Kelly F. Pate
Client Ref:

Date: Mar 30 2007
Dispatcher: Angela D.
AngelaD@abclegal.com
800-324-5619

Tracking #: 4248935



Thank you for using PFI.

Additional service information can be obtained via the Process Service Detail page on our web site.
www.pfiserves.com/trackserve.asp

Servee: NIKKI PHILLIPS

Person Served: Randal Sims stepfather A male approx. 55-65 years of age 5'4"-5'6" in height weighing 180-200 lbs with brown hair

Served By: Justin Hines

Service Date: Mar 14 2007 1:30PM

Documents: NOTICE TO DEFENDANT; SUMMONS; CIVIL COVER SHEET; COMPLAINT FOR COPYRIGHT INFRINGEMENT; EXHIBITS; CORPORATE/ CONFLICT DISCLOSURE STATEMENT; REPORT ON THE FILING OR DETERMINATION OF AN ACTION OR APPEAL RE A COPYRIGHT

Service Address: 656 HILLABEE ST ALEXANDER CITY county of County ALABAMA 35010

Court: UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF ALABAMA

Case Name: ARISTA RECORDS LLC, A DELAWARE LIMITED LIABILITY COMPANY; ET AL., Plaintiff / Petitioner
vs. NIKKI PHILLIPS Defendant / Respondant

Case Number: 3:07CV200-WHA

Hearing Date:

All documents are served pursuant to:

- A) The statutes or court rules of the jurisdiction in which the matter originates, and or
- B) The statutes or court rules of the state in which service took place, and
- C) Instructions from the customer

If service was substituted upon another person or left with a person(s) who refused to identify themselves, it is incumbent upon you, our customer, to notify ABC legal/PFI in writing if further attempts to serve, serve by mail, or investigate are required.

Information contained in this notification is deemed to be accurate and reliable, but is subject to final verification by PFI personnel.

OFFICIAL PROCESS SERVER TO
U.S. DEPT. OF JUSTICE AND U.S. STATE DEPT.

IN THE
UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF ALABAMA

ARISTA RECORDS LLC, A DELAWARE
LIMITED LIABILITY COMPANY; ET AL.,

Plaintiff/Petitioner

vs.
NIKKI PHILLIPS

Defendant/Respondent

Hearing Date:

CAUSE NO: **3:07CV200-WHA**

DECLARATION OF SERVICE OF:
NOTICE TO DEFENDANT; SUMMONS; CIVIL COVER
SHEET; COMPLAINT FOR COPYRIGHT INFRINGEMENT;
EXHIBITS; CORPORATE/ CONFLICT DISCLOSURE
STATEMENT; REPORT ON THE FILING OR
DETERMINATION OF AN ACTION OR APPEAL RE A
COPYRIGHT

The undersigned hereby declares: That s(he) is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the **14th day of March, 2007, at 1:30 PM**, at the address of **656 HILLABEE Street, ALEXANDER CITY, Tallapoosa County, AL 35010**; this declarant served the above described documents upon **NIKKI PHILLIPS**, by then and there personally delivering **1** true and correct copy (ies) thereof, by then presenting to and leaving the same with **Randal Sims stepfather, A male approx. 55-65 years of age 5'4"-5'6" in height weighing 180-200 lbs with brown hair, a person of suitable age and discretion residing at the respondent's usual place of abode listed above.**

No information was provided or discovered that indicates that the subjects served are members of the U.S. military.

Declarant hereby states under penalty of perjury under the laws of the State of **Alabama** that the statement above is true and correct.

DATED this **21st** day of **March, 2007**.


Justin Hines, AL

ABC's Client Name
Holme, Roberts & Owen RIAA
(PFI)

ORIGINAL PROOF OF
SERVICE

ABC Tracking #: **4248935**



AO 440 (Rev. 08/01) Summons in a Civil Action

United States District Court
MIDDLE DISTRICT OF ALABAMA

ARISTA RECORDS LLC, a Delaware limited liability company; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS, INC., a Delaware corporation; PRIORITY RECORDS LLC, a California limited liability company; WARNER BROS. RECORDS INC., a Delaware corporation; ELEKTRA ENTERTAINMENT GROUP INC., a Delaware corporation; and ATLANTIC RECORDING CORPORATION, a Delaware corporation,

SUMMONS IN A CIVIL CASE

CASE NUMBER:

3:07cv 200-WHA

v.

Nikki Phillips

TO:

Nikki Phillips
656 Hillabee Street
Alexander City, AL 35010

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

Dorman Walker (Bar # WAL086)
Kelly F. Pate (Bar # FIT014))
BALCH & BINGHAM LLP
105 Tallapoosa Street, Suite 200
P.O. Box 78 (36101)
Montgomery, Alabama 36104

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Debra P. Hackett

CLERK

(BY) DEPUTY CLERK

Ben Reinger

3/6/07

DATE

FD-440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left _____
- ☐ Returned unexecuted _____

- ☐ Other (specify) _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.